



New Laws Affecting Appraisal Management Companies

FNC Briefing
June 2, 2009
(updated December 2009)

Legislative Changes

- **Appraisal Management Companies (AMC) face new challenges**
- **New legislation regulates appraisal management companies**
 - Arkansas (effective Jan 1, 2010)
 - California (effective Jan 1, 2010)
 - Louisiana (effective Jan 1, 2010)
 - Nevada (effective Jan 1, 2010)
 - New Mexico (effective June 19, 2009)
 - Utah (effective May 12, 2009)
- **Regulatory findings in Illinois**
- **Legislation is pending in other states**
- **Legislation is pending at the federal level (Title VI “Appraisal Activities” in HR 1728)**

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What is an AMC in Arkansas?

Arkansas Appraisal Management Company Registration Act (eff. Jan 1, 2010)

<http://www.arkleg.state.ar.us/assembly/2009/R/Acts/Act628.pdf>

17-14-402. Definitions.

As used in this subchapter:

- (1) "Appraisal management company" means a person that performs the actions necessary to administer a network of state-licensed appraisers to fulfill requests for appraisal management services on behalf of a client, including without limitation:
 - (A) Recruiting appraisers;
 - (B) Contracting with appraisers to perform appraisal services;
 - (C) Negotiating fees with appraisers;
 - (D) Receiving appraisal orders and appraisal reports;
 - (E) Submitting appraisal reports received from appraisers to the company's clients; and
 - (F) Providing related administrative and clerical duties.
- (2) "Appraisal management services" means conducting business by telephone, by electronic means, by mail, or in person directly or indirectly for compensation or other pecuniary gain or in the expectation of compensation or other pecuniary gain to:
 - (A) Solicit, accept, or offer to accept a request for appraisal services; or
 - (B) Employ or contract with a licensed or certified appraiser to perform appraisal services;

Not included

Arkansas

17-14-412. Applicability.

This subchapter does not apply to:

- (1) An agency of the federal, state, county, or municipal government;
- (2) A person authorized to engage in business as a bank, farm credit system, savings institution, or credit union under the laws of the United States, the State of Arkansas, or any other state;
- (3) A licensed real estate broker or licensed real estate agent performing activities regulated by the Arkansas Real Estate Commission unless the licensed real estate broker or licensed real estate agent receives compensation or other pecuniary gain in connection with the referral, placement, or execution of a request for appraisal services; or
- (4) An officer or employee of a government agency, person, licensed real estate broker, or licensed real estate agent described in this section when acting within the scope of employment of the officer or employee.

What is an AMC in California?

California Business and Professions Code §11302 (d)(1)

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0201-0250/sb_237_bill_20091011_chaptered.pdf

“Appraisal management company” means any person or entity that satisfies all of the following conditions:

- (A) Maintains an approved list or lists, containing 11 or more independent contractor appraisers licensed or certified pursuant to this part, or employs 11 or more appraisers licensed or certified pursuant to this part.
- (B) Receives requests for appraisals from one or more clients.
- (C) For a fee paid by one or more of its clients, delegates appraisal assignments for completion by its independent contractor or employee appraisers.

[emphasis added]

California Exemptions

California Business and Professions Code §11302 (d)(2)

(2) “Appraisal management company” does not include any of the following, when that person or entity directly contracts with an independent appraiser:

- (A) Any bank, credit union, trust company, savings and loan association, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States that is authorized to transact business in this state.
- (B) Any finance lender or finance broker licensed pursuant to Division 9 (commencing with Section 22000) of the Financial Code, when acting under the authority of that license.
- (C) Any residential mortgage lender or residential mortgage servicer licensed pursuant to Division 20 (commencing with Section 50000) of the Financial Code, when acting under the authority of that license.
- (D) Any real estate broker licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, when acting under the authority of that license.

(3) “Appraisal management company” does not include any person licensed to practice law in this state who is working with or on behalf of a client of that person in connection with one or more appraisals for that client.

Louisiana

Louisiana Appraisal Management Company Licensing and Regulation Act (effective January 1, 2010)

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=668785>

§3415.2. Definitions

- (2) "Appraisal management company" means any corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that engages in any of the following activity:
- (a) Administers a network of independent contract appraisers to perform real estate appraisal services for lenders or other clients.
 - (b) Receives requests for residential appraisal services from clients and enters into agreements, written or otherwise, with one or more independent appraisers to perform the real estate appraisal services contained in the request.
 - (c) Otherwise serves as a third-party broker of appraisal management services between clients and appraisers.
- (3) "Appraisal management services" means the process of receiving a request for the performance of real estate appraisal services from a client, and for a fee paid by the client, entering into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request.

Louisiana Exemptions

Louisiana does not have an exclusion for financial institutions.

§3415.4. Exemptions

A. This Chapter shall not be applicable to any of the following:

- (1) Any corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that exclusively employs persons on an employer/employee basis for the performance of real estate appraisal services in the normal course of its business and such entity is responsible for ensuring that the real estate appraisal services being performed by its employees are being performed in accordance with Uniform Standards of Professional Appraisal Practice.
- (2) Any individual, corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity engaged in real estate appraisal services who, in the normal course of business, enters into an agreement, whether written or otherwise, with another independent appraiser for the performance of real estate appraisal services that the hiring or contracting appraiser is unable to complete for any reason, including but not limited to competency, work load, schedule, or geographic location.
- (3) Any individual, corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity engaged in real estate appraisal services who, in the normal course of business, enters into an agreement, whether written or otherwise, with an independent contractor appraiser for the performance of real estate appraisal services and upon the completion of the appraisal, the report of the appraiser performing the real estate appraisal services is cosigned by the appraiser who subcontracted with the independent appraiser for the performance of the real estate appraisal services.

B. The Louisiana Real Estate Appraisal Board may issue special exemptions, if deemed acceptable by the board, upon special application and review.

Nevada

- **Assembly Bill No. 287** (sent to governor on May 23, 2009)
http://www.leg.state.nv.us/75th2009/Bills/AB/AB287_EN.pdf
- **Sec. 6. 1. “Appraisal management company” means a person, limited-liability company, partnership, association or corporation which for compensation:**
 - (a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;*
 - (b) Administers a network of appraisers performing real estate appraisal services as independent contractors;*
 - (c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or*
 - (d) Otherwise serves as a third-party broker of appraisal services.*

Nevada Exclusions

Assembly Bill No. 287

Nevada does not have an exclusion for financial institutions.

Sec. 6. 2. *The term does not include:*

- (a) An appraisal firm;*
- (b) Any person licensed to practice law in this State who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an independent appraiser;*
- (c) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of appraisal assignments that the person or entity cannot complete for any reason, including, without limitation, competency, workload, scheduling or geographic location; and*
- (d) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and, upon the completion of such an assignment, cosigns the appraisal report with the independent appraiser acting as an independent contractor.*

What is it in New Mexico?

New Mexico Appraisal Management Company Registration Act

(eff. June 19, 2009) <http://www.nmlegis.gov/Sessions/09%20Regular/final/SB0456.pdf>

C. "appraisal management company" means a corporation, partnership, sole proprietorship, subsidiary, unit or other business entity that:

- (1) administers networks of independent contract appraisers to perform real estate appraisal services for clients;
- (2) receives requests for real estate appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request; or
- (3) otherwise serves as a third-party broker of appraisal management services between clients and appraisers;

D. "appraisal management services" means the process of receiving a request for the performance of real estate appraisal services from a client, and for a fee paid by the client, entering into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request;

See regulations effective October 16, 2009

<http://www.rld.state.nm.us/RealEstateAppraisers/ruleslaw.html>

Exclusions

New Mexico

New Mexico does not have an exclusion for financial institutions.

Section 4. EXEMPTIONS.–The Appraisal Management Company Registration Act is not applicable to:

- A. a corporation, partnership, sole proprietorship, subsidiary, limited liability company or other business entity that employs persons on an employer and employee basis exclusively for the performance of real estate appraisal services in the normal course of its business and the entity is responsible for ensuring that the real estate appraisal services being performed by its employees are being performed in accordance with uniform standards of professional appraisal practice;
- B. an individual who in the normal course of the individual's business enters into an agreement, whether written or otherwise, with another independent contractor appraiser for the performance of real estate appraisal services that the hiring or contracting appraiser cannot complete for any reason, including competency, work load, schedule or geographic location; or
- C. an individual, corporation, partnership, sole proprietorship, subsidiary, limited liability company or other business entity that in the normal course of business enters into an agreement, whether written or otherwise, with an independent contractor appraiser for the performance of real estate appraisal services and upon the completion of the appraisal, the report of the appraiser performing the real estate appraisal services is co-signed by the appraiser who subcontracted with the independent appraiser for the performance of the real estate appraisal services.

Utah?

Utah Appraisal Management Company Registration and Regulation Act

(eff. May 12, 2009) <http://le.utah.gov/%7E2009/bills/hbillenr/hb0152.pdf>

(4) "Appraisal management company" means an entity that:

- (a) administers a network of appraisers to perform real estate appraisal activities for one or more clients;
- (b) (i) receives a request for a real estate appraisal activity from a client; and
(ii) for a fee paid by the client, enters into an agreement with one or more appraisers to perform the real estate appraisal activity contained in the request; or
- (c) otherwise serves as a third-party broker of an appraisal management service between a client and an appraiser.

(5) "Appraisal management service" means a process of:

- (a) receiving a request for the performance of a real estate appraisal activity from a client; and
- (b) for a fee paid by the client, entering into an agreement with one or more appraisers to perform the real estate appraisal activity contained in the request.

61-2e-201. Registration required – Qualification for registration.

(3) This section applies without regard to whether the entity uses the term:

- (a) "appraisal management company";
- (b) "mortgage technology company"; or
- (c) another name.

Exclusions

Utah

Utah does not have an exclusion for financial institutions.

61-2e-104. Exemption.

This chapter does not apply to:

- (1) an entity that:
 - (a) exclusively employs an individual on an employer-employee basis for the performance of a real estate appraisal activity in the normal course of the entity's business; and
 - (b) is responsible for ensuring that the real estate appraisal activity being performed by an employee is performed in accordance with applicable appraisal standards;
- (2) an individual who:
 - (a) is an appraiser; and
 - (b) in the normal course of business enters into an agreement, whether written or otherwise, with another appraiser for the performance of a real estate appraisal activity that the individual cannot complete for any reason, including:
 - (i) competency; (ii) work load; (iii) schedule; or (iv) geographic location;
- (3) an individual who:
 - (a) in the normal course of business enters into an agreement, whether written or otherwise, with an appraiser for the performance of a real estate appraisal activity; and
 - (b) under the agreement, cosigns the report of the appraiser performing the real estate appraisal activity upon the completion of the real estate appraisal activity; or
- (4) an appraisal management company that contracts with one or more appraisers for the performance of fewer than ten appraisals in this state in a calendar year.

Illinois Findings

- **Not a new statute, this is the Illinois Real Estate Appraisal Board acting on its own.**
 - Finding 1: AMC is the client, lender is an intended user
 - Finding 3: Appraisers “must **prominently** display the amount of the appraisal fee paid to them within the report when an Appraisal Management Company orders the appraisal”

Illinois Findings (cont'd)

- Finding 4: “Unlicensed persons performing review appraisals, which include the reviewer’s opinion of value, **whether it is his or her own opinion or a concurrence with the original appraiser’s value**, shall be turned over to the Attorney General for prosecution (out of state offenders)”
- Finding 5: “appraisers must not be complicit in facilitating the delivery of anything less than a true copy of the appraisal report...”

Special Provisions

Altering Appraisal Reports

Altering appraisal reports

Arkansas Appraisal Registration Act

(b) The registrant shall not:

- (3) Require an appraiser to provide the registrant with the appraiser's digital signature or seal;**
- (4) Alter, amend, or change an appraisal report submitted by a licensed or certified appraiser including without limitation by:
 - (A) Removing the appraiser's signature or seal; or**
 - (B) Adding or removing information to or from the appraisal report;****

Altering appraisal reports

California Business & Professions Code §11345.6

11345.6. (a) No registered appraisal management company may alter, modify, or otherwise change a completed appraisal report submitted by an independent appraiser, including, without limitation, by doing either of the following:

- (1) Permanently removing the appraiser's signature or seal.
- (2) Adding information to, or removing information from, the appraisal report with an intent to change the value conclusion.

(b) No registered appraisal management company may require an appraiser to provide it with the appraiser's digital signature or seal. However, nothing in this subdivision shall be deemed to prohibit an appraiser from voluntarily providing his or her digital signature or seal to another person.

Altering appraisal reports

- **Louisiana**

§3415.17. Alteration of appraisal reports

An appraisal management company shall not alter, modify, or otherwise change a completed real estate appraisal service report submitted by an appraiser.

Altering appraisal reports

Nevada

Sec. 18. *It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.*

Altering appraisal reports

New Mexico Appraisal Management Company Registration Act

Section 19. [NEW MATERIAL] APPRAISAL REPORTS–

ALTERATION–USE.–An appraisal management company shall not:

- A. alter, modify or otherwise change a completed appraisal report submitted by an independent appraiser without the appraiser's written knowledge and consent;

Altering appraisal reports

Utah

61-2e-307. Prohibitions related to an appraiser.

- (4) An appraisal management company required to be registered under this chapter, or a controlling person, employee, or agent of the appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser.**

R162-150-3. Unprofessional Conduct. (Regulations)

- (1) An appraisal management company commits unprofessional conduct if the appraisal management company:**
- (c) requires an appraiser to modify any aspect of the appraisal report unless the modification complies with Utah Code Ann. Section 61-2e-307**

Altering appraisal reports

But what is an appraisal report?

- **USPAP (Definitions)**

- Report: any communication, written or oral, of an appraisal, appraisal review, or appraisal consulting service that is transmitted to the client upon completion of the assignment

- **Arkansas Statutes: 17-14-103. Definitions.**

- (20)“Report” means:
 - (A) Any communication, written or oral, of an appraisal, review, or analysis;
 - (B) The document that is transmitted to the client upon completion of an assignment; or
 - (C) The tangible expression of an appraiser's service;

Louisiana Revised Statutes 37:3392

- (3) "Appraisal report" means any communication, written or oral, of an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate.

- **New Mexico Statutes, 61-30-3. Definitions. (Repealed effective July 1, 2012.)**

- D. "appraisal report" means any communication, written or oral, of an appraisal regardless of title or designation and all other reports communicating an appraisal;

Altering appraisal reports

- **Why does the definition matter?**
- **Appraisers routinely add other items when they send an appraisal report file, just as they did when they delivered their appraisals in person, such as**
 - Invoices
 - Copies of licenses and resumes
 - Copies of errors and omissions coverage
- **If I remove any of these from the file, am I altering the appraisal report?**

Special Provisions

Duty to Review

Duty to Review

Arkansas HB 1694

17-14-405. Requirements for registration.

(5) A certification that the person

(B) Has a system in place to review the work of all independent appraisers that are performing appraisal services for the appraisal management company on a periodic basis to ensure that the appraisal services are being conducted in accordance with the minimum reporting standards under § 17-14-202(b);

Duty to Review

California Business & Professions Code §11345.3

11345.3. The director may not issue a certificate of registration to an appraisal management company unless the appraisal management company confirms in its application for registration that all of its contracts with clients include provision of each of the following as standard business practices, as and where applicable:

- (b) Reviewing the work of all independent contractor appraisers contracted by the applicant to ensure that appraisal services are performed in accordance with the Uniform Standards of Professional Appraisal Practice.

Duty to Review

Louisiana

§3415.13. Adherence to standards

Each appraisal management company seeking to be licensed in this state shall certify to the board on an annual basis that it has a system in place to review on a periodic basis the work of all appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice.

Duty to Review

New Mexico, SB 456

Section 15. ADHERENCE TO STANDARDS.—Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis that it has a system in place to review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to ensure that the real estate appraisal services are being conducted in accordance with uniform standards of professional appraisal practice.

Duty to review

Utah Appraisal Management Company Registration and Regulation Act

61-2e-302. Adherence to standards.

- (1) An appraisal management company required to be registered under this chapter shall have a system in place to review the work of an appraiser who performs a real estate appraisal activity for the appraisal management company on a periodic basis to ensure that a real estate appraisal activity is conducted in accordance with applicable appraisal standards.
- (2) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of the system described in Subsection (1) in the form prescribed by the division.

Special Provisions

**Verify appraisers are
licensed or certified**

Checking licenses

Arkansas Appraisal Registration Act

- (A) Has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

Checking licenses

California Business & Professions Code §11345.3

11345.3. The director may not issue a certificate of registration to an appraisal management company unless the appraisal management company confirms in its application for registration that all of its contracts with clients include provision of each of the following as standard business practices, as and where applicable:

- (a) Ensuring that independent contractor appraisers contracted by the applicant possess all required licenses and certificates from the office.

Checking licenses

Louisiana

§3415.12. Pre-engagement certification

Each appraisal management company seeking to be licensed in this state shall certify to the board, on an annual basis, on a form prescribed by the board, that the appraisal management company has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state pursuant to the Louisiana Real Estate 2 Appraisers Law, R.S. 51:3391 et seq.

License in good standing

New Mexico

Section 14. PRE-ENGAGEMENT CERTIFICATION.—
Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis on a form prescribed by the board that the appraisal management company has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state pursuant to the Real Estate Appraisers Act.

Licensed in good standing

Utah 61-2e-301. Use of licensed or certified appraisers

- (1) An appraisal management company required to be registered under this chapter may not enter into an agreement with an appraiser for the performance of a real estate appraisal activity unless the appraiser is licensed or certified in good standing pursuant to Chapter 2b, Real Estate Appraiser Licensing and Certification Act.**
- (2) (a) An appraisal management company required to be registered under this chapter shall have a system to verify that an individual added to the appraiser panel of the appraisal management company holds a license or certificate in good standing in this state pursuant to Chapter 2b, Real Estate Appraiser Licensing and Certification Act.**
- (b) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of the system described in Subsection (2)(a) in the form prescribed by the division.**

Special Provisions

Detailed Recordkeeping

Detailed records

Arkansas Appraisal Registration Act (eff. 1/1/2010)

(C) Maintains a detailed record of each request for appraisal services that it receives and the independent appraiser that performs the appraisal services for the appraisal management company;

Detailed records

California Business & Professions Code §11345.3

11345.3. The director may not issue a certificate of registration to an appraisal management company unless the appraisal management company confirms in its application for registration that all of its contracts with clients include provision of each of the following as standard business practices, as and where applicable:

(c) Maintaining records of each of the following for each service request:

- (1) Date of receipt of the request.
- (2) Name of the person from whom the request was received.
- (3) Name of the client for whom the request was made, if different from the name of the person from whom the request was received.
- (4) The appraiser or appraisers assigned to perform the contracted service.
- (5) Date of delivery of the appraisal product to the client.

Detailed records

Louisiana

§3415.14. Record keeping

Each appraisal management company seeking to be licensed in this state shall certify to the board on an annual basis that it maintains a detailed record for five years of each real estate appraisal service request that it receives including the fee paid by the lenders to all appraisers for all real estate appraisal services and the names of all appraisers or entities that perform all real estate appraisal services for the appraisal management company.

Detailed records

New Mexico

- **Section 16. RECORDKEEPING.**—Each appraisal management company seeking to be registered shall certify to the board on an annual basis that it maintains a detailed record of each service request that it receives and the independent appraiser that performs the real estate appraisal services for the appraisal management company.

Detailed records

Utah

61-2e-303. Recordkeeping.

- (1) An appraisal management company required to be registered under this chapter shall maintain a detailed record of the following for the same time period an appraiser is required to maintain an appraisal record for the same real estate appraisal activity:**
 - (a) a real estate appraisal activity request that the appraisal management company receives; and**
 - (b) the appraiser that performs the real estate appraisal activity described in Subsection (1) for the appraisal management company.**
- (2) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of its recordkeeping described in Subsection (1) in the form prescribed by the division.**

Special Provisions

Compensation

Compensation issues

Arkansas 17-14-407. Registrant responsibilities and duties.

- (b)(1) A registrant shall maintain or cause to be maintained complete records of requests for appraisal services referred to an appraiser licensed or certified by the board, including without limitation records pertaining to the acceptance of fees from borrowers or clients and payments to appraisers.**

- (f) The registrant shall disclose to its client the actual fees paid to an appraiser for appraisal services separately from any other fees or charges for appraisal management services.**

Compensation

Nevada

Sec. 10. Subsection 2

(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, “appraiser fee schedule” means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.

Compensation

New Mexico

Section 18. PAYMENT–NONTAXABLE TRANSACTION CERTIFICATE.–

- A. Each appraisal management company shall, except in cases of breach of contract or substandard performance of services, make payment to an independent appraiser for the completion of an appraisal or valuation assignment within sixty days of the date on which the independent appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.
- B. An appraisal management company shall provide an appraiser with the appropriate nontaxable transaction certificate pursuant to Section 7-9-48 NMSA 1978.

Compensation

Utah

61-2e-304. Required disclosure.

- (1) Before an appraisal management company may receive monies from a client for a real estate appraisal activity requested by the client, the appraisal management company shall disclose to the client the total compensation that the appraisal management company pays to the appraiser who performs the real estate appraisal activity.**

Compensation challenge

Utah

61-2e-307. Prohibitions related to an appraiser.

- (k) compensating an appraiser in a manner that the person should reasonably have known would result in the appraiser not conducting a real estate appraisal activity in a manner consistent with applicable appraisal standards;

Compensation challenge

Utah Regulations (effective November 9, 2009)

R162-150-3. Unprofessional Conduct.

- (1) An appraisal management company commits unprofessional conduct if the appraisal management company:
 - (a) fails to disclose to the appraiser:
 - (i) the total compensation paid to the appraiser who performs the real estate appraisal activity, disclosed as a dollar amount; and
 - (ii) the total compensation retained by the appraisal management company in connection with the real estate appraisal activity, disclosed as a dollar amount;
 - (b) fails to require the appraiser to disclose in the body of the appraisal report:
 - (i) the total compensation paid to the appraiser who performs the real estate appraisal activity, disclosed as a dollar amount; and
 - (ii) the total compensation retained by the appraisal management company in connection with the real estate appraisal activity, disclosed as a dollar amount;

A Very Special Problem

North Carolina AMC bill, (sb 829, proposed)

<http://www.ncleg.net/gascripts/BillLookup/BillLookup.pl?Session=2009&BillID=s829&submitButton=Go>

- (d) Fees shall be paid to a real estate appraiser based on Federal Deposit Insurance Corporation (FDIC) appraisal management company protocol within 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant or the registrant's client. Fees shall be paid directly to the real estate appraiser from the lender and not from the registrant. The registrant shall charge a direct fee to the lender for services provided without any fee splits.

Special Provisions

Appraisers on your list

Appraisers on your list

Arkansas

17-14-408. Prohibited activities.

- (5)(A) Allow the removal of an independent appraiser from an appraiser panel without prior written notice to the appraiser.**
- (B) Written notice shall include written evidence of:**
- (i) The appraiser's illegal conduct;
 - (ii) A violation of the minimum reporting standards under § 17-14-202(b) or other applicable statutes or rules;
 - (iii) Substandard performance; or
 - (iv) Otherwise improper or unprofessional behavior;

Appraisers on your list

Louisiana

§3415.18. Adjudication of disputes between an appraisal management company and an appraiser

- A. Except within the first thirty days after an independent appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without doing all of the following:
- (1) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company. If the appraiser is being removed from the panel for illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice, or a violation of state licensing standards, the nature of the alleged conduct or violation shall be identified.
 - (2) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.
- B. An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice, or violation of state licensing standards, may file a complaint with the board for a review of the decision of the appraisal management company, except that in no case shall the board make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company which is unrelated to the actions specified in Subsection A of this Section.
- C. If an appraiser files a complaint against an appraisal management company pursuant to Subsection B of this Section, the board shall adjudicate the complaint.
- D. If, after opportunity for hearing and review, the board determines that an appraiser did not commit a violation of law, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of state licensing standards, the board shall order that an appraiser be reinstated to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.
- E. Following the adjudication of a complaint to the board by an appraiser against an appraisal management company, an appraisal management company may not refuse to make assignments for real estate appraisal services to an appraiser, or reduce the number of assignments, or otherwise penalize the appraiser, if the board has found that the appraisal management company acted improperly in removing the appraiser from the appraiser panel.

Appraisers on your list

Nevada

Sec. 19. 1. *If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.*

2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.

Appraisers on your list

New Mexico

Section 20. ADJUDICATION OF DISPUTES BETWEEN AN APPRAISAL MANAGEMENT COMPANY AND AN INDEPENDENT APPRAISER.–

- A. Except within the first thirty days after an independent appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company shall not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without notifying the appraiser in writing of the reasons for the appraiser being removed from the appraiser panel of the appraisal management company. If the appraiser is being removed from the panel for illegal conduct, violation of the uniform standards of professional appraisal practice or a violation of state licensing standards, the appraisal management company shall provide the independent appraiser the nature of the alleged conduct or violation and provide an opportunity for the appraiser to respond.
- B. An independent appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of the uniform standards of professional appraisal practice or violation of state licensing standards may file a complaint with the board for a review of the decision of the appraisal management company, except that in no case shall the board make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company that is unrelated to the actions specified in Subsection A of this section.
- C. If an independent appraiser files a complaint against an appraisal management company pursuant to Subsection B of this section, the board shall adjudicate the complaint within one hundred eighty days.
- D. If after opportunity for hearing and review, the board determines that an independent appraiser did not commit a violation of law, a violation of the uniform standards of professional appraisal practice or a violation of state licensing standards, the board shall order that the appraiser be added to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

Appraisers on your list

Utah

61-2e-306. Removal of appraiser from appraisal panel.

Except within the first 30 days after the day on which an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove the appraiser from its appraiser panel, or otherwise refuse to assign a request for a real estate appraisal activity to an appraiser without:

- (1) notifying the appraiser in writing of:
 - (a) the reason why the appraiser is being removed from the appraiser panel of the appraisal management company; and
 - (b) the nature of the alleged conduct or violation if the appraiser is being removed from the appraiser panel for:
 - (i) illegal conduct; or
 - (ii) a violation of the applicable appraisal standards; and
- (2) providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

Special Provisions

Assignment Conditions

Assignment Conditions

Utah Regulations (effective November 9, 2009)

R162-150-3. Unprofessional Conduct.

- (1) An appraisal management company commits unprofessional conduct if the appraisal management company:
 - (d) requires an appraiser to prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic area;
 - (e) requires an appraiser to prepare an appraisal report under a time frame that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations;

Assignment Conditions

Louisiana House Bill 381

§3415.16. Appraiser independence; prohibitions

A. It shall be unlawful for any employee, director, officer, or agent of an appraisal management company licensed in this state pursuant to this Chapter to influence or attempt to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery, or in any other manner, including but not limited to the following:

- (9) Forcing an appraiser to accept an assignment where the delivery times are so short that they force the appraiser to render a misleading report.

Federal Legislation

- **Mortgage Reform and Predatory Lending Act (HR 1728)**
 - Passed House, no companion bill in the Senate
 - Appraisal Management Company provisions
 - Standards set by the Appraiser Qualifications Board of the Appraisal Foundation, but at least
 - Regulated by a state appraiser regulatory agency
 - Verify that only licensed or certified appraisers are used
 - Require that appraisals comply with USPAP
 - Require that appraisals be performed independently and free from influence
 - AMC's affiliated with regulated financial institutions are exempt but subject to regulation by the federal financial institution regulators
 - Effective 36 months after enactment
 - *Note, this bill is expected to be folded into HR 4173, The Wall Street Reform and Consumer Protection Act*

More to come

- **We have not seen all of the different proposed bills.**
 - Proposed bills in several states including North Carolina and Florida
- **FNC initiatives regarding the appraisal management company legislation**
 - Neutrality
 - Effectiveness
- **Serving our clients, including our AMC clients, as well as the appraisers.**

Some practical assistance

- **Alterations to the appraisal report**
- **Reviewing appraiser's work**
- **Detailed records**
- **Compensation**

Solving the alteration problem

If I cannot alter, change or amend an appraisal report, and

I want/need to deliver an AI Ready(.ENV) file to my lender client

I need to receive an AI Ready (.ENV) file from the appraiser

True? Or can I provide a PDF or Lighthouse file that is later converted an AI Ready file?

Removing Invoices

- The best solution is to get the file you need from the appraiser, containing the information you need.
- FNC clients can remove the option for the appraiser to include an Invoice when submitting via AppraisalPort in the AIReady file delivery and to block submission if the AIReady file does contain an invoice.
- FNC does not believe that the invoice is part of the appraisal report.

How do I “prove” I did not alter?

- **Suggestions**

- Lots of ideas and technologies nothing yet has stuck
- Registration process
- Third party repository
- Something else
- How do we solve this in some very simple way that works for appraisers and appraisal management companies?

How do I review?

If I have a duty to review on a periodic basis (you may review every file on a practical basis), and

I also must have the ability to receive AI Ready files (that I cannot alter) to satisfy my clients, then

I need to be able to read and review AI Ready files.

Same question applies to PDF files

How do I review?

- If your using an FNC platform you have what you need.
- If you use GAAR on CDNA Portal, you have what you need.
- If you use the AIReady file viewer web service you have the tools you need.
- You may always convert an AI Ready file into a PDF if your system can review PDF's

Detailed records

- **Most systems today (including FNC platforms) will likely meet this expectation.**
- **FNC systems go above what would be considered detailed and store all of the needed information.**
- **Trick is to have individual records on each assignment.**

Compensation

- **As and FNC CMS or CHQ client your system contains all of the compensation information.**
- **As an FNC partner the detail is recorded by the FNC client, however you will need to be sure your system records the interaction and that you provide the needed regulatory information to the appraisers and FNC client.**

Compensation

- **Do you disclose what you pay to the appraiser on each invoice or do you disclose once per month in a detail file that is separate from the invoice you send your client?**
- **The statutes do not appear to require you to disclose this information on the invoice to your client.**

Compensation challenge

Utah

61-2e-307. Prohibitions related to an appraiser.

- (k) compensating an appraiser in a manner that the person should reasonably have known would result in the appraiser not conducting a real estate appraisal activity in a manner consistent with applicable appraisal standards;

What is the solution to this for AMC's?

Questions...

For more information

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